

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 5364 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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- 1 Whether Reporters of Local Papers may be allowed
to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy
of the judgment ?
- 4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?
- 5 Whether it is to be circulated to the civil judge
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CHANDRAKANTBHAI ISHWARBHAI PATEL - Petitioner
Versus
TORRENT POWER (AHMEDABAD ELECTRICITY CO.) LTD. & 1 -
Respondents

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Appearance :

MR JV MEHTA for Petitioner.

NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

RULE SERVED for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 19/12/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

By filing the instant petition under Article 226 of the Constitution, the petitioner i.e. Chandrakantbhai Ishwarbhai Patel, who is proprietor of Swastik Complex, has prayed to issue an appropriate writ or order directing the respondent No.1 i.e. Torrent Power (Ahmedabad Electricity Co.) Ltd. to grant four electric connections to the Units constructed by him. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Urban Development Authority to grant Building Use Permission to the residential/commercial Units constructed by him.

2. The record shows that the petitioner i.e. Chandrakantbhai I. Patel and others were owners of land bearing Hissa No. 1+2/P of Revenue Survey No.123, Final Plot No.133 of Town Planning Scheme No.46 (Motera-Amiyapur-Sughad) situated at village Motera, Taluka & District : Gandhinagar. The petitioner and others were desirous of developing the land belonging to them. Therefore,

they applied for development permission, which was granted by Ahmedabad Urban Development Authority on February 5, 2005. This is quite evident from the contents of the document produced by the petitioner at Annexure-E to the petition. Mr.J.V.Mehta, learned Counsel for the petitioner, states at the Bar that pursuant to the development permission granted by Ahmedabad Urban Development Authority, the petitioner has constructed 57 commercial Units and 12 residential Units. After construction of the Units was over, it was the duty of the petitioner to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electric connections to the Units constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of four electric connections to the Units constructed by him. The said prayer has been turned down by the respondent No.1, which is quite evident from the contents of letter dated February 27, 2006

addressed by the General Manager of the respondent No.1 to the petitioner. A copy of the said letter is produced by the petitioner at Annexure-A to the petition. By the said communication, the petitioner has been called upon to produce either Building Use Permission or conditional order of the High Court to enable the respondent No.1 to grant four electric connections as prayed for by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

3. The endorsement on the board indicates that both the respondents have been duly served with the notice of rule issued in the instant petition on May 4, 2006 by the Division Bench comprising J.R.Vora & M.D.Shah, JJ. However, none of the respondents has appeared either through its Layer nor through its constituted agent, nor any of them has filed reply controverting the averments made in the petition.

4. This Court has heard Mr.J.V.Mehta, learned Counsel for the petitioner and also considered the documents forming part of the petition. On the facts and in the circumstances of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

- (1) The petitioner will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.
- (2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.
- (3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for

providing electricity connection to the four Units constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to four Units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to the four Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the four Units constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to four Units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to four Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to four Units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order

as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)